

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent “California First Advocacy Fund, sponsored by IBA West, Inc.,” (Respondent Committee) is a state general purpose recipient committee located in Pleasanton, CA.

This case arose from Respondent Committee voluntarily submitting these matters to the Fair Political Practices Commission (the “Commission”) upon becoming aware of Respondent Committee’s reporting obligations. In 2003, IBA West, Inc. (IBA) established Respondent Committee with the intent that it would be used for legal defense and legislative advocacy purposes. In November 2007, Respondent Committee reported that it received its first contribution on August 19, 2003, totaling \$10,000. Respondent Committee also reported that it made its first monetary contribution to a state ballot measure committee on September 26, 2003, totaling \$5,000. Respondent Committee has, to date, made several other contributions to state ballot measure committees.

IBA timely filed major donor reports disclosing most of the contributions from Respondent Committee. However, in light of Respondent Committee’s contribution activity to one or more state ballot measures, Respondent Committee qualified as a state general purpose recipient Committee under the Political Reform Act (the “Act”).<sup>1</sup> As such, Respondent Committee was required to comply with specified campaign reporting provisions of the Act. Respondent Committee failed to timely file a statement of organization, eight (8) semi-annual campaign statements, four (4) pre-election statements, and one (1) late contribution report as required under the Act.

For the purposes of this Stipulation, Respondent’s violations of the Political Reform Act are stated as follows:

**COUNT 1:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a statement of organization by the August 29, 2003, due date, in violation of Government Code Section 84101, subdivision (a).

**COUNT 2:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a pre-election campaign statement by the October 10, 2003, due date, for the reporting period January 1 to September 30, 2003, in violation of Government Code Sections 84200.3 and 84200.4, subdivision (a).

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 3:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a semi-annual campaign statement by the January 12, 2004, due date for the period October 1 to December 31, 2003, in violation of Government Code Sections 84200.3 and 84200.4, subdivision (b).
- COUNT 4:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a pre-election campaign statement by the February 19, 2004, due date, for the reporting period January 1 to February 14, 2004, in violation of Government Code Sections 84200.5, subdivision (e) and 84200.8.
- COUNT 5:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a late contribution report within 24 hours of making a late contribution totaling \$25,000 by the February 25, 2004, due date, in violation of Government Code Section 84203.
- COUNT 6:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a semi-annual campaign statement by the August 2, 2004, due date for the period February 15 to June 30, 2004, in violation of Government Code Section 84200, subdivision (a).
- COUNT 7:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a pre-election campaign statement by the October 5, 2004, due date, for the reporting period July 1 to September 30, 2004, in violation of Government Code Sections 84200.5, subdivision (e) and 84200.8.
- COUNT 8:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a semi-annual campaign statement by the January 31, 2005, due date for the period October 1 to December 31, 2004, in violation of Government Code Section 84200, subdivision (a).
- COUNT 9:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a semi-annual campaign statement by the August 1, 2005, due date for the period January 1 to June 30, 2005, in violation of Government Code Section 84200, subdivision (a).
- COUNT 10:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a semi-annual campaign statement by the January 31, 2006, due date for the period July 1 to December 31, 2005, in violation of Government Code Section 84200, subdivision (a).

- COUNT 11:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a semi-annual campaign statement by the July 31, 2006, due date for the period January 1 to June 30, 2006, in violation of Government Code Section 84200, subdivision (a).
- COUNT 12:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a pre-election campaign statement by the October 5, 2006, due date, for the reporting period July 1 to September 30, 2006, in violation of Government Code Sections 84200.5, subdivision (e) and 84200.8.
- COUNT 13:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a semi-annual campaign statement by the January 31, 2007, due date for the period October 1 to December 31, 2006, in violation of Government Code Section 84200, subdivision (a).
- COUNT 14:** Respondent California First Advocacy Fund, sponsored by IBA West, Inc., failed to file a semi-annual campaign statement by the July 31, 2007, due date for the period January 1 to June 30, 2007, in violation of Government Code Section 84200, subdivision (a).

## **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. The Act therefore establishes a comprehensive campaign reporting system.

### **Duty to File a Statement of Organization**

Section 82013, subdivision (a) of the Act includes within the definition of “committee” any person or combination of persons who receives contributions of \$1,000 or more during a calendar year. This type of committee is commonly referred to as a “recipient committee.”

Under the Act, there are different kinds of recipient committees, defined by the type of election activity in which they engage. A recipient committee that is formed or exists primarily to support or oppose candidates or measures voted on in a state election or in more than one county is defined, at section 82027.5, subdivision (b), as a “state general purpose committee.” Additionally, under Section 82048.7, a general purpose committee may be a sponsored committee.

Under the Act’s campaign reporting system, Section 84101, subdivision (a) provides that every committee shall file a statement of organization within ten days after it qualifies as a committee. As such, a recipient committee must file a statement of organization within ten days

after it receives any contribution that brings the total amount of the contributions that it has received to \$1,000 or more. The committee shall file the original of the statement of organization with the Secretary of State, and a copy of the statement of organization with the local filing officer with whom the committee is required to file the originals of its campaign reports under Section 84215.

### **Duty to File Campaign Statements and Reports**

Also under the Act's campaign reporting system, recipient committees, as defined in Section 82013, subdivision (a), are required to file certain specified campaign statements and reports.

Section 84215, subdivision (a) requires a state general purpose committee to file the committee's campaign statements and reports with the California Secretary of State ("SOS"), the Registrar-Recorder of Los Angeles County, the Registrar of Voters of the City and County of San Francisco, and the county of the committee's domicile. Additionally, any general purpose committee that cumulatively receives contributions or makes expenditures totaling fifty thousand dollars (\$50,000) or more after July 1, 2000, to support or oppose candidates for any elective state office or state measure, is required to file statements, reports, or other documents online or electronically with the SOS. (Section 84605, subd. (b).)

Pursuant to Section 84605, subdivision (i), persons filing online or electronically must also file required disclosure statements and reports in paper format, which continue to be the official filing for audit and other legal purposes until the SOS determines the system is operating securely and effectively.

### **Duty to File Semi-annual Campaign Statements**

Section 84200, subdivision (a) requires all recipient committees to file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.<sup>2</sup> All filing obligations continue until the recipient committee is terminated by filing a statement of termination (Form 410) with the SOS and a copy with the local filing officer receiving the committee's original campaign statements. (Section 84214; Regulation 18404.)

### **Duty to File Pre-election Campaign Statements**

Section 84200.3 and Section 84200.4, subdivision (a)<sup>3</sup> provided that in connection with a statewide direct primary held in March of an even-numbered year, a state general purpose

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<sup>2</sup> Under Regulation 18116, whenever the Act requires that a statement or report (other than late contribution reports required by Section 84203, late independent expenditure reports required by Section 84204, or notice by the contributor of a late in-kind contribution required by Section 84203.3) be filed prior to or not later than a specified date or during or within a specified period, and the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for such a statement or report shall be extended to the next regular business day.

<sup>3</sup> Sections 84200.3 and 84200.4 were repealed in 2005, and therefore are only applicable to certain specified reports due in 2003 and 2004 related to the March 2, 2004, election.

committee must file a pre-election statement no later than October 10 for the reporting period ending on September 30 of the year prior to the election. Additionally, pursuant to Section 84200.4, subdivision (b), a state general purpose committee must file a pre-election statement no later than January 10 for the reporting period ending on December 31 of the year prior to the election.

In any even-numbered year in which the statewide direct primary election is held on a date other than the first Tuesday after the first Monday in June, Section 84200.5, subdivision (e) requires a state general purpose committee formed pursuant to subdivision (a) of Section 82013 to file pre-election campaign statements as specified in section 84200.8, if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the pre-election statement. Section 84200.8 provides for the filing of pre-election statements covering two reporting periods prior to the election. For the reporting period ending 45 days before the election, the first pre-election campaign statement is required to be filed no later than 40 days before the election. (Section 84200.8, subd. (a).) For the reporting period ending 17 days before the election, the second pre-election campaign statement is required to be filed no later than 12 days before the election. (Section 84200.8, subd. (b).)

Section 84200.7, subdivision (b) provides for the filing of two pre-election statements covering two reporting periods prior to elections held in November of an even numbered year. The reporting period for the first pre-election campaign statement ends September 30. This first pre-election campaign statement must be filed no later than October 5. The reporting period for the second pre-election campaign statement runs from October 1 through 17 days before the election. This second pre-election campaign statement must be filed no later than 12 days before the election.

### **Duty to File Late Contribution Reports**

Pursuant to Section 84203 when a committee makes or receives a late contribution as defined by Section 82036, the committee must disclose the contribution in a late contribution report filed at each office with which the committee is required to file its next campaign statement pursuant to Section 84215, within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution which totals in the aggregate one thousand dollars (\$1,000) or more that is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure before an election, but after the closing date of the last campaign statement that is required to be filed before the election. Under Section 84200.7, for an election held in June or November of an even-numbered year, the late contribution period covers the last 16 days before the election. Under Section 84200.8, for an election not held in June or November of an even-numbered year, the late contribution period covers the last 16 days before the election.

## **SUMMARY OF THE FACTS**

IBA West, Inc. (IBA) is a 501(c)(6) trade association representing insurance brokers and agents in California. IBA collects dues payments from its members, a portion of which are

earmarked to support IBA's Political Action Committee (IBAPAC). IBA established California First Advocacy Fund (Respondent Committee) in August 2003 with the intent that it would be used for legal defense and legislative advocacy purposes. Members of IBA were solicited to make contributions to Respondent Committee separately from dues payments, and IBA did not intend for Respondent Committee to engage in any reportable election activities.

However, upon later self-initiated review by IBA's and Respondent Committee's attorneys of Respondent Committee's political activity, which included making contributions to several state ballot measure committees, it was evident that Respondent Committee had filing obligations under the Act which had not been fulfilled. Before contacting the FPPC to self-report its violations, Respondent Committee filed all of the delinquent statements and reports on November 6, 2007, except a statement for the period of January 1 to September 30, 2003. Respondent Committee ultimately enlisted professional services to prepare its campaign statements, and since January 31, 2008, it appears that Respondent Committee has timely filed its campaign statements and reports.

After filing the overdue statements and reports, Respondent Committee voluntarily submitted these matters to the FPPC.

The statements reveal that Respondent Committee made monetary contributions to primarily formed state ballot measure committees in 2003, 2004, 2006, and 2007. Respondent Committee reported that it received its first monetary contribution on August 19, 2003, totaling \$10,000. Respondent Committee also reported that it made its first monetary contribution on September 26, 2003, to a primarily formed state ballot measure committee which opposed Proposition 56 in the March 2, 2004, election totaling \$5,000. Respondent Committee has, to date, made eight (8) contributions to state ballot measure committees.

IBA timely and accurately filed major donor reports disclosing six of Respondent Committee's contributions to state ballot measure committees. However, in light of Respondent Committee's contribution activity to one or more state ballot measures, Respondent Committee qualified as a state general purpose recipient committee under the Act. As such, Respondent Committee was required to comply with specified campaign reporting provisions of the Act. Respondent Committee failed to timely file a statement of organization, eight (8) semi-annual campaign statements, four (4) pre-election statements, and one (1) late contribution report as required under the Act.

By failing to timely file campaign statements and reports, Respondent Committee committed fourteen (14) violations of the Act, as follows:

#### **Count 1**

(Failure to Timely File a Statement of Organization)

Respondent Committee had a duty, as a state general purpose recipient committee, to file a statement of organization within 10 days of qualifying as a committee pursuant to Government Code Sections 82013, 82027.5, and 84101. Respondent Committee received its first contribution, totaling \$10,000, on August 19, 2003. Thus, Respondent Committee was required

to file a statement of organization no later than August 29, 2003. Respondent Committee filed its statement of organization on October 24, 2007. By failing to timely file the statement of organization, Respondent Committee violated Section 84101.

**Count 2**

(Failure to Timely File an Odd-Year Pre-Election Statement)

Respondent Committee had a duty to file a pre-election campaign statement by the October 10, 2003, due date, for the reporting period January 1 to September 30, 2003. Respondent Committee did not file this pre-election campaign statement. By failing to file the pre-election campaign statement for the above mentioned reporting period, Respondent Committee violated Sections 84200.3 and 84200.4.

**Count 3**

(Failure to Timely File an Odd-Year Semi-Annual Statement)

Respondent Committee had a duty to file a semi-annual campaign statement by the January 12, 2004, due date for the period October 1 to December 31, 2003. Respondent Committee did not file this semi-annual campaign statement by the applicable due date. Respondent Committee did not file the semi-annual statement until November 6, 2007. By failing to timely file the semi-annual campaign statement for the above mentioned reporting period, Respondent Committee violated Sections 84200.3 and 84200.4.

**Counts 4, 7 and 12**

(Failure to Timely File Pre-Election Statements)

Respondent Committee had a duty to file the following pre-election campaign statements:

<b>Count</b>	<b>Reporting Period</b>	<b>Filing Deadline</b>
4	January 1 to February 14, 2004	February 19, 2004
7	July 1 to September 30, 2004	October 5, 2004
12	July 1 to September 30, 2006	October 5, 2006

Respondent Committee did not file these pre-election campaign statements by the applicable filing deadlines. Respondent Committee did not file these pre-election statements until November 6, 2007. By failing to timely file the pre-election campaign statements for the above mentioned reporting periods, Respondent Committee violated Sections 84200.5, subdivision (e) and 84200.8.

**Count 5**

(Failure to Timely File a Late Contribution Report)

Respondent Committee had a duty to report making a late contribution within 24 hours of making the contribution. The late contribution reporting period for the March 2, 2004, election was from February 15 to March 1, 2004. On February 24, 2004, Respondent Committee made a contribution of \$25,000 to a primarily formed ballot measure committee which opposed

Proposition 56 in the March 2, 2004, election. Thus, Respondent Committee was required to file a late contribution report no later than February 25, 2004. Respondent Committee did not file the required late contribution report until October 25, 2007. By failing to disclose the late contribution in a properly filed late contribution report, Respondent Committee violated section 84203, subdivision (a).

**Count 6, 8 – 11, 13 and 14**  
(Failure to Timely File Semi-Annual Statements)

Respondent Committee had a duty to file the following semi-annual campaign statements:

<b>Count</b>	<b>Reporting Period</b>	<b>Filing Deadline</b>
6	February 15 to June 30, 2004	August 2, 2004
8	October 1 to December 31, 2004	January 31, 2005
9	January 1 to June 30, 2005	August 1, 2005
10	July 1 to December 31, 2005	January 31, 2006
11	January 1 to June 30, 2006	July 31, 2006
13	October 1 to December 31, 2006	January 31, 2007
14	January 1 to June 30, 2007	July 31, 2007

Respondent Committee did not file these semi-annual campaign statements by the applicable due dates. Respondent Committee did not file these semi-annual statements until November 6, 2007. By failing to timely file the semi-annual campaign statements for the above mentioned reporting periods, Respondent Committee violated Section 84200, subdivision (a).

**CONCLUSION**

This matter consists of 14 counts of violating the Act, which carry a maximum administrative penalty of Five Thousand Dollars (\$5,000) per count for a total of Seventy Thousand Dollars (\$70,000).

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act.

In this case, Respondent Committee failed to timely file required statements and reports under the Act, some of which were due before the related elections. The public harm inherent in these violations is that the public is deprived of important information such as the sources and amounts of contributions to a campaign and the amounts expended by the campaign. Respondent Committee took steps to remedy the violations that occurred, but this action occurred long, in several instances years, after the subject campaigns and elections took place. Respondent Committee ultimately enlisted professional services to prepare its campaign statements, and it voluntarily filed a statement of organization, campaign statements and reports



which fully disclosed Respondent Committee's receipts and expenditures. Since January 31, 2008, it appears that Respondent Committee has timely filed its campaign statements and reports. Additionally, Respondent Committee voluntarily submitted the matters to the Commission by self-reporting its non-filing violations to the Enforcement Division.

Regarding Count 1, the typical administrative penalty for not timely filing a statement of organization has been in the middle of the penalty range. Accordingly, the facts of this case justify an administrative penalty in the amount of two thousand five hundred dollars (\$2,500) for this violation.

Regarding Count 2, the typical administrative penalty for failing to file an odd-year pre-election campaign statement in connection with a March primary election held in an even-numbered year has been in the mid-to-high end of the penalty range. Accordingly, the facts of this case justify an administrative penalty in the amount of three thousand five hundred dollars (\$3,500) for this violation.

Regarding Count 3, the typical administrative penalty for failing to file an odd-year semi-annual campaign statement due prior to a March primary election held in an even-numbered year has been in the middle of the penalty range. Accordingly, the facts of this case justify an administrative penalty in the amount of three thousand dollars (\$3,000) for this violation.

Regarding Counts 4, 7 and 12, the typical stipulated administrative penalty for failing to timely file a pre-election campaign statement has been in the mid-to-high end of the applicable penalty range. Accordingly, the facts of this case justify an administrative penalty in the amount of three thousand five hundred dollars (\$3,500) for each violation.

Regarding Count 5, the typical administrative penalty for failing to file late contribution reports in cases that are resolved outside of the Streamlined Late Contribution Enforcement Program has varied depending on the surrounding circumstances. In this case, Respondent Committee and its sponsor have no prior enforcement history. Additionally, the contribution was timely reported by Respondent Committee's sponsor. Lastly, Respondent Committee voluntarily filed the appropriate late contribution report and self-reported the non-filing issue to the Commission. Accordingly, the facts of this case justify an administrative penalty in the amount of two thousand five hundred dollars (\$2,500) for this violation.

Regarding Counts 6, 8 – 11, 13 and 14, the typical administrative penalty for not timely filing semi-annual campaign statements has been in the low-to-mid end of the penalty range. Accordingly, the facts of this case justify an administrative penalty in the amount of two thousand five hundred dollars (\$2,000) for each violation.

Accordingly, the facts of this case justify an imposition of an administrative penalty of Thirty-Six Thousand Dollars (\$36,000).